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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,766	12/29/2000	Max Allen Weaver	32887.203735	5781

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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

751766

Applicant(s)

WEAVER

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Pri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10/28/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-58 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 1-22, 29-34 is/are allowed.
- ☒ Claim(s) 23-28, 35, 38, 42, 43, 46, 50-52 is/are rejected.
- ☒ Claim(s) 36, 37, 39, 40, 41, 44, 45, 47-49, 53-58 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

Claim Objections

1. Claims 53-56 and 58 are objected to under 37 CFR 1.75© as being in improper form because a multiple dependent claim cannot depend from a multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 53-56 and 58 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 040139.
EP '139 teaches polyesters which comprise an anthraquinone species containing benzene-COOH groups. The present invention is thus anticipated by EP '139.

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4. Claims 23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Krutak et al (4999418).

Krutak teaches light absorbing polyesters which are formed from dicarboxylic acid containing anthraquinones and diols (see Table I and column 13, lines 63-68).

5. Claims 23-25, 27, 35, 38, 42, 43, 46, 50 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Langer et al (5243021).

Langer teaches a polyester which comprises acidic UV absorbing acid function containing monomers (see for example scheme 2 and examples). The composition may contain a thermoplastic polymer (see for example column 12, lines 30-32), and the polymer may comprise other dicarboxylic acids (column 22, lines 4-18).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 23-28, 35, 42, 43, 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 040139.

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EP '139 teaches polyesters which comprise an anthraquinone species containing benzene-COOH groups. EP differs from the present invention in not specifically teaching having the diacid monomer at the particular level of the present invention, and in not teaching a specific blend with a thermoplastic polymer. The variation of the levels of the diacidic monomers in order to achieve improvements in areas such as coloration, resilience, hardness or moldability would be an obvious variation to one of ordinary skill in the art (In re Aller 105 USPQ 233). The use of the EP '139 polymers with thermoplastics would be obvious to one of ordinary skill in the art, from the teaching of EP '139 that they may be used with polymers made from monomers such as styrene, divinylbenzene, etc. (See page 11, lines 2-4).

8. Claims 36, 37, 39, 40, 41, 44, 45, 47-49, 57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 1-22 and 29-34 are allowable over the art of record.

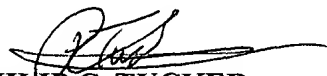
10. Applicants arguments have been considered but are not deemed fully persuasive. Applicants arguments with respect to the terminal disclaimer are persuasive. Applicants arguments with respect to the EP reference are not deemed persuasive. Applicant uses the term "comprises" in describing A1 in the formula of claim 23. Thus contrary to applicants arguments,

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the polymer does not have to exclusively contain the light absorbing monomers. With respect to the rejection under 35 USC 103, the variation of the levels of the diacidic monomers in order to achieve improvements in areas such as coloration, resilience, hardness or moldability would be an obvious variation to one of ordinary skill in the art (In re Aller 105 USPQ 233). Reliance is made on other case law than Boesch. New rejections and objections are applied in this action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2494
January 13, 2003


PHILIP C. TUCKER
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